



DEPARTMENT OF LABOR

Wage and Hour Division

Extension of the Approval of Information Collection Requirements

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C.

3506(c)(2)(A).. This program helps to ensure that requested data can be provided in a desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can properly be assessed. Currently, the Wage and Hour Division is soliciting comments concerning its proposal to extend Office of Management and Budget (OMB) approval of the Information Collection: 29 CFR Part 825, The Family and Medical Leave Act of 1993. A copy of the proposed information collection request can be obtained by contacting the office listed below in the FOR FURTHER INFORMATION CONTACT section of this Notice.

DATES: Written comments must be submitted to the office listed in the ADDRESSES section below on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Control Number 1235-0003, by either one of the following methods: E-mail: WHDPRAComments@dol.gov; Mail, Hand Delivery, Courier: Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210. Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via e-mail or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Mary Ziegler, Director, Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693-0023 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889-5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. Background: The Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. 2601, requires private sector employers who employ 50 or more employees, all public and private elementary schools, and all public agencies to provide up to 12 weeks of unpaid, job-protected leave during any 12-month period to eligible employees for certain family and medical reasons

for birth of a son or daughter and to care for the newborn child; for placement with the employee of a son or daughter for adoption or foster care; to care for the employee's spouse, son, daughter, or parent with a serious health condition; because of a serious health condition that makes the employee unable to perform the functions of the employee's job; and to address qualifying exigencies arising out of the deployment of the employee's spouse, son, daughter, or parent to covered active duty in the military), and up to 26 weeks of unpaid, job protected leave during a single 12-month period to care for a covered servicemember with a serious injury or illness who is the spouse, son, daughter, parent, or next of kin to the employee.

The Wage Hour Division (WHD) created optional use forms: WHD Publication 1420, WH-380-E, WH-380-F, WH-381, WH-382, WH-384, WH-385, and WH-385-V to assist employers and employees in meeting their FMLA third-party notification obligations. WHD Publication 1420 allows employers to satisfy the general notice requirement. See § 825.300(a). Form WH-380-E allows an employee requesting FMLA leave for his or her own serious health condition to satisfy the statutory requirement to furnish, upon the employer's request, appropriate certification (including a second or third opinion and recertification) to support the need for leave for the employee's own serious health condition. See § 825.305(a). Form WH-380-F allows an employee requesting FMLA-leave for a family member's serious health condition to satisfy the statutory requirement to furnish, upon the employer's request, appropriate certification (including a second or third opinion and recertification) to support the need for leave for the family member's serious health condition. See § 825.305(a). Form WH-381 allows an employer to satisfy the regulatory requirement to provide employees taking FMLA leave with written notice detailing specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. See § 825.300(b) and (c). Form WH-382

allows an employer to meet its obligation to designate leave as FMLA-qualifying. See § 825.301(a). Form WH-384 allows an employee requesting FMLA leave based on a qualifying exigency to satisfy the statutory requirement to furnish, upon the employer's request, appropriate certification to support leave for a qualifying exigency. See § 825.309. Form WH-385 allows an employee requesting FMLA leave based on an active duty covered servicemember's serious injury or illness to satisfy the statutory requirement to furnish, upon the employer's request, a medical certification from an authorized health care provider. See § 825.310. Form WH 385 V allows an employee requesting leave based on a veteran's serious injury or illness to satisfy the statutory requirement to furnish, upon the employer's request, a medical certification from an authorized health care provider. See § 825.310.

II. Review Focus: The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Enhance the quality, utility and clarity of the information to be collected;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions: The DOL seeks an approval for the extension of this information collection requirement that requires private sector employers of 50 or more employees and public agencies to provide up to 12 weeks of unpaid, job-protected leave during any 12-month period to "eligible"

employees for certain family and medical reasons (i.e., for birth of a son or daughter, and to care for the newborn child; for placement with the employee of a son or daughter for adoption or foster care; to care for the employee's spouse, son, daughter, or parent with a serious health condition; and because of a serious health condition that makes the employee unable to perform the functions of the employee's job) and up to 26 workweeks of unpaid, job protected leave during a single 12-month period to an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember for the employee to provide care for the covered servicemember with a serious injury or illness. 29 U.S.C. 2601, et seq.

Type of Review: Extension.

Agency: Wage and Hour Division.

Title: 29 CFR part 825, The Family and Medical Leave Act of 1993

OMB Number: 1235-0003

Affected Public: Business or other for-profit; Federal Government; and State, Local, or Tribal Government.

Total Respondents: 91.1 million Total Annual Responses: 89,305,469

Estimated Total Burden Hours: 19,027,093

Estimated Time per Response: various

Frequency: various

Total Burden Cost (capital/startup): \$0

Total Burden Costs (operation/maintenance): \$163,467,915

Dated: September 4, 2014.

Mary Ziegler,
Director, Division of Regulations, Legislation, and Interpretation.

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